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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,240	02/06/2004	Richard E. Waitkus JR.	016093.0118	9102
23640	7590	02/22/2006	EXAMINER	
BAKER BOTTS, LLP			LAU, TUNG S	
910 LOUISIANA			ART UNIT	
HOUSTON, TX 77002-4995			PAPER NUMBER	
			2863	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

ali

Office Action Summary	Application No.	Applicant(s)	
	10/774,240	WAITKUS, RICHARD E.	
	Examiner	Art Unit	
	Tung S. Lau	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,11,13-19,21,24-26,28-30 and 32 is/are rejected.
- 7) ☒ Claim(s) 6,7,9,10,12,20,22,23,27 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Pre-Brief Appeal Conference filed on 02/07/2006, Mr. John Barlow decided that the applicant arguments are persuasive, the prosecution is reopen, the finality on 09/16/2005 is withdrawn. Prosecution on the merits of this application is reopened on claims considered unpatentable for the reasons indicated below:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

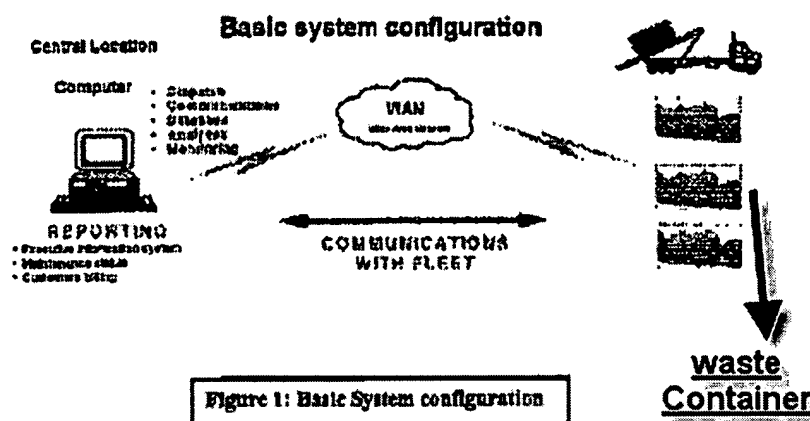
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3, 4, 5, 8, 11, 13, 14, 15, 16, 17, 18, 19, 21, 29, 32, 24, 25, 26, 28 and 30 are rejected under 35 U.S.C. 102(a) as being anticipated by Nadir (U.S. Patent Application Publication 2002/0077875).

Regarding claim 1:

Nadir discloses a material management system including: one or more waste containers adapted to receive and compact waste (abstract); a fullness-measuring subsystem for determining the fullness of one or more waste containers (fig. 1, page 2, section 0016-0026); a computerized scheduling subsystem in communication with the fullness-measuring subsystem for automatically determining an optimal time to empty each waste container(fig. 1,

page 3, section 0028-0036), based the fullnesses of the waste container (fig. 15) and scheduling factors (page 3, section 0028-0036) including customer preferences (page 2, section 0016-0026) and waste hauler limitations (page 3, section 0028-0037).



Regarding claim 15:

Nadir discloses a computerized method for scheduling a pick up time to remove of one or more waste containers, including, for each waste container (abstract, fig. 1), automatically determining a fullness of the waste container (page 2, section 0015-0027); automatically determining when a waste container will a target level of fullness (page 2, section 0015-0027), based on the current fullness and predicted future usage (page 2, section 0015-0027, fig. 1); automatically determining an optimal time to remove the waste container (page 2-3, section 0015-0036), based on when the waste container will reach the target level of

fullness (page 2, section 0015-0027), customer preferences (page 2, section 15-0027), and waste hauler limitations (page 2, section 0015-0027); and automatically scheduling the removal of the waste container for the optimal time (page 2-3, section 26-0036).

Regarding claim 24:

Nadir discloses a computer program, stored on a tangible storage medium, for use in scheduling a pick up time to remove one or more waste containers, the computer program including executable indications that cause a computer to (fig. 1), for each waste container (fig. 1); determine a fullness of the waste container; determine when the waste container will reach a target level of fullness (page 2-3, section 0023-0036), based on the current fullness and predicted future usage (page 2-3, section 0023-0036); determine an optimal time to remove the waste container (page 2-3, section 0023-0036) , based on when the waste container will reach the target level of fullness (page 2-3, section 0023-0036), customer preferences (page 2-3, section 0023-0036), and waste hauler limitations (page 2-3, section 0023-0036); and schedule the removal of the waste container for the optimal time (page 2-3, section 0023-0036).

Regarding claim 3, Nadir discloses including the optimal time is the latest time that satisfies customer preferences and waste hauler limitations (page 2, section 0022-0023); Regarding claim 4, Nadir discloses a preference that the customer's waste container only reach a certain level of fullness (page 2, section 0022-

0023); Regarding claim 5, Nadir discloses a number of drivers available at a specified time (page 2, section 0022-0023); Regarding claim 8, Nadir discloses including a communication subsystem in communication with the computerized scheduling subsystem for notifying the waste hauler when to remove the waste container (page 3, section 0028-0036); Regarding claim 11, Nadir discloses the predicted future usage is based on statistical analysis, performed by the computerized scheduling sub-system, of customer usage patterns including prior recorded fullnesses (page 2-3, section 0023-0036); Regarding claim 13, Nadir discloses causes the fullness-measuring subsystem to determine again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal; and if the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal (page 2-3, section 0022-0036); Regarding claim 14, Nadir discloses determines when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste hauler limitations (page 2, section 0022-0023).

Regarding claims 16, 25, Nadir discloses percentage of the fullness (page 2, section 0022-0025); Regarding claim 17, Nadir discloses percentage of the fullness is about 100% (page 2, section 0022); Regarding claims 18, 26, Nadir discloses automatically determining when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste

hauler limitations (page 2, section 0022-0024); Regarding claim 19, Nadir discloses latest time to accomplish the scheduling (page 2, section 0022-0024); Regarding claim 28, Nadir discloses when determining the waste container will reach the target level of fullness (page 2, section 0022); Regarding claim 29, Nadir discloses a preference that the customer's waste container only reach a certain level of fullness (page 2, section 0022); Regarding claims 30, 32, Nadir discloses operating hours of waste hauler's dispatcher office (page 2, section 0022); Regarding claim 21, Nadir discloses including customer usage pattern (page 2, section 0016).

Allowable Subject Matter

3. Claims 6, 7, 9, 10, 12, 20, 22, 23, 27 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach: regarding claim 12, linear regression patterns; Regarding claim 6, if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more customer preferences; Regarding claim 7, if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more waste hauler limitation;

Regarding claims 9, 22, subject to user intervention; Regarding claims 20, 27, automatically determining again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal, and if the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal; Regarding claim 31, preference emptied certain day of the week.

Claim 10 is objected due to their dependency on claim 9.

Claim 23 is objected due to their dependency on claim 22.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

4. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection. However, applicant's arguments filed 08/25/2005 have been fully considered but they are not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

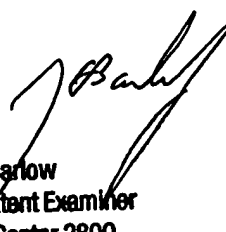
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2863

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL



John Barlow
Supervisory Patent Examiner
Technology Center 2800